

Service Date: February 14, 1991

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	UTILITY DIVISION
of the City of Great Falls, a)	
Municipality, for Authority to)	DOCKET NO. 90.10.67
Establish Increased Rates for)	
Water Service.)	ORDER NO. 5523d

ORDER OVERRULING THE OBJECTION OF THE FEDERAL EXECUTIVE
AGENCIES TO THE SECOND PROPOSED PROCEDURAL ORDER

On February 5, 1991 the Federal Executive Agencies (FEA) filed objections to the Second Proposed Procedural Order (SPPO) in Docket No. 90.10.67, alleging that the dates set in the SPPO denied FEA due process since it had not timely received certain data requests and responses. FEA further alleged that the Commission's removal of certain persons from the service list, for purposes of receiving data requests and responses, resulted in the untimely receipt of these materials. Finally, FEA requested that the Commission grant an extension of one week to the dates listed in paragraphs 4(b) through 4(j) of the SPPO.

In its Petition To Intervene (received October 29, 1990), FEA requested that four persons be added to the official service list: Lieutenant Colonel Bruce J. Barnard, USAF, Captain Lauri Ittner, Mr. Kent Seaton, and Exeter Associates, Inc. Since data responses can be costly to prepare and distribute, efforts were undertaken by Commission counsel to have FEA reduce the number of persons to receive data requests and

responses. These efforts were unsuccessful and, in fact, on December 17, 1990, the Commission received a request from Captain Timothy M. Domek, USAF, Assistant Staff Judge Advocate, to include these same four persons on the official service list for Docket Nos. 90.10.67 and 90.10.66.

On January 14, 1991 Commission counsel again engaged in an unsuccessful effort to have FEA identify a person to receive data requests and responses and, on January 15, 1991, sent a letter to Captain Domek in which Captain Ittner was selected -- her location at Malmstrom apparently being a determinative factor. Counsel's letter also makes reference to the numerous attempts made by him to resolve this matter.

On January 30, 1991, 15 days after Commission counsel sent the aforementioned letter, the SPPO was issued. And it was not until February 5, 1991, 21 days after the selection of Captain Ittner, that FEA filed its objection.

This Commission is cognizant that Operations Desert Shield and Desert Storm have probably impacted on FEA's priorities and workload, and every effort will be made to accommodate FEA in this regard. However, the events discussed herein evidence a pattern of disregard for the procedural integrity of this Docket. The concept of due process involves adequate notice and, in regard to the service list, there is ample evidence that every effort was made to provide adequate notice to FEA. Therefore, FEA should not now be heard to complain that its due process rights were impugned by its failure to timely receive the aforementioned data requests and responses. Objection overruled.

DONE AND DATED THIS 11th day of February, 1991 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD L. ELLIS, Chairman

DANNY OBERG, Vice Chairman

BOB ANDERSON, Commissioner

JOHN B. DRISCOLL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)